REMARKS

Claims 25 and 39-66 are currently pending. Claim 25 and 40 are currently amended; claims 43-63 are new. New claims 43-66 are supported throughout the specification; in particular, claims 43 are supported at pages 14-22.

Applicants wish to thank Examiner Zeender for the telephone conference of June 16, 2005 and his helpful comments regarding potentially allowable subject matter. New claims 43-66 are directed toward that subject matter.

Claims 25 and 39-42 stand rejected in the Office Action mailed February 17, 2005 on various grounds. Applicant has carefully considered the Office Action and associated comments therein and in response submits the following remarks.

Claim 25 was rejected under 35 U.S.C. § 112 on the ground that in lines 6-7, it was "not clear whether the terminology 'information concerning at least one attendance right option for said potential event' refers to the same information claimed in line 3 or to separate distinct information." Claim 25 has been amended to make clear that lines 3-4 refer to one or more options and lines 6-7 refer to at least one of the options of lines 3-4.

Claim 25 also was rejected under 35 U.S.C. § 112 on the ground that term "participants" in line 9 lacked antecedent basis. Claim 25 has been amended to clarify that the exchange has participants.

Claims 41-42 were rejected under 35 U.S.C. § 112 on the ground that "said pricing information" lacked antecedent basis. Claim 25 has been amended to provide the required antecedent basis. Specifically, "price information" in claim 25 has been changed to "pricing information."

Thus, all Section 112 rejections are believed to have been successfully overcome.

Claims 25 and 39-42 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Pat. No. 5,797,127, to Walker et al. in view of Official Notice. This rejection is respectfully traversed.

In the Office Action, the Patent Office states that Walker teaches "storing in a computer information relating to an attendance right option for an airline flight." As previously explained (see, e.g., response filed December 16, 2002), Walker does not disclose an attendance right option.

An attendance right option, as explained in the subject specification, is an option (a contract) for one or more tickets that allow one to attend an event (typically a sporting event) under certain specified circumstances not certain to occur at the time the option is created. For example, an attendance right option purchaser might purchase an option for Super Bowl (event) tickets if the New York Giants are one of the two teams playing (specified circumstances not yet scheduled). The Super Bowl itself is scheduled years in advance, but whether the Giants play would not be scheduled until the Giants win the NFC Championship Game (which could occur no sooner that two weeks prior to the Super Bowl). The exemplary option, then, only could be created before the NFC Championship Game concludes, and would vest upon the conclusion of that game (assuming the Giants win).

In contrast, Walker teaches an option that gives the purchaser the right to purchase an airline ticket for one or more scheduled flights at a predetermined price for a fixed period of time. The option "vests" at the time of purchase, since the airline flight or flights are already scheduled. The option aspect of the instrument taught by Walker is simply the ability to buy a ticket already in existence at a fixed price. The purchaser has no reason to doubt that the desired flight will not take place. Indeed, Walker does not explain what happens to the option if the flight is canceled. Perhaps the price of the option is refunded, or the option is applied to a ticket for an alternate flight. Thus, Walker does not appear to teach a true contingency option such as that claimed in claim 25, which is only of value if some uncertain circumstances occur and is worthless otherwise. For at least the above reasons, Walker does not teach an attendance right option.

The Office Action admits that Walker fails to teach several elements of claim 25. Specifically, the Patent Office admits that Walker fails to disclose: "the price terms set between participants in the exchange; the options involving sporting events, and vesting of the option

occurring through advancement to or qualification for the event associated with the attendance right." Applicant appreciates this admission by the Patent Office, but nevertheless maintains all previously-submitted distinguishing arguments made regarding Walker and other cited art (including Official Notice).

The Office Action relies on "Official Notice" as disclosing various elements of claim 25 missing from Walker. As explained above and further discussed below, other elements are missing from Walker – specifically, attendance right options – so even if reliance on Official Notice for the limitations admitted by the Patent Office to be absent from Walker were proper, one of the primary limitations is disclosed by neither Walker nor Official Notice.

If the Patent Office is merely taking Official Notice of the fact that alumni who make large donations may be given the privilege of first choice for available tickets to sporting events in which their school's teams participate, Applicant does not traverse. But if the Patent Office is using Official Notice to assert that the detailed scheme disclosed at www.UConnHuskies.com is 102(b) art, Applicant respectfully traverses. Applicant is unaware of a 102(b) reference disclosing that scheme, and respectfully requests the Patent Office to either produce a proper 102(b) reference to support its assertion that such schemes are prior art, or withdraw that assertion. Clarification of precisely what is "Officially Noticed" is respectfully requested.

Moreover, Applicant submits that taking Official Notice only is sufficient, at best, to show that certain claim limitations were taught by the prior art. A *prima facie* case of obviousness is not made until the Patent Office cites some motivation to combine the various limitations. The motivation cannot come from the subject application - it must come from the prior art. The Office Action cites no motivation in the prior art to combine the asserted teachings of Walker with any of the limitations asserted to be disclosed by Official Notice.

Likewise, the Patent Office must demonstrate that the combination of references results in the claimed invention. The Office Action does not explain how the 103 references can be combined, what such a combination would be, or how that combination results in a § 102 reference.

Further, the items of which Official Notice has been taken are not sufficient to render the pending claims obvious. The asserted fact that alumni could receive a *guaranteed* ability to purchase tickets for post-season tournament events (i.e., an option contract, such as that claimed in claim 25) by giving large donations to their alumni club is not supported by the UConnHuskies reference. That reference only suggests that *if* tickets are available, the members at a higher level will be able to get first chance at such tickets (and at the best tickets): "Availability and location of post-season tickets are also determined by membership levels." Thus, making a large donation does not ensure that an alumnus will be able to purchase a ticket to a particular event, even if that event occurs. It only ensures that he will be given the better tickets if they are available (i.e., available to the alumni society and not already taken by other alumni). There is no guarantee that higher-donating or faster-acting alumni will not already have taken the tickets he wanted. Consequently, the alumni are not "purchasing" *options*. They do not pay money in exchange for a contract that guarantees they will get the tickets they want if their team plays in a certain event. They are purchasing *preferences* (to the extent that making a donation is a "purchase"). They make donations, and in exchange they get the privilege of moving closer to the head of the line – but they still have to get in line, and others might get the tickets they want, even if their team plays. In contrast, an attendance right option would provide them with a guaranteed right (a contract) to purchase tickets of their choice if their team plays.

Moreover, nothing in the UConnHuskies reference indicates that the privileges of membership levels can be transferred to the general public, or even to other alumni. Thus, the preferences accorded to various membership levels do not appear to be freely transferable; indeed, such preferences apparently are specific to the individual alumni.

Also, the mere (asserted) fact that tickets might have been sold on ebay more than one year prior to Applicant's priority date is not particularly relevant (and unsupported by the cited reference, since it is not prior art). Claim 25 is directed to an exchange for attendance right options. Neither Walker, UConnHuskies, nor ebay says anything about attendance right options. Consequently, those references cannot be combined (even based on Official Notice) to render claim 25 or the other pending claims obvious.

Moreover, even if the Patent Office maintains that the cited references teach true attendance right options (they do not), those references clearly fail to teach freely transferable options. Walker teaches "options" for airline tickets. Although Walker is silent on the issue, those options would not be expected to be freely transferable from one passenger to another (since the tickets themselves are not freely transferable).

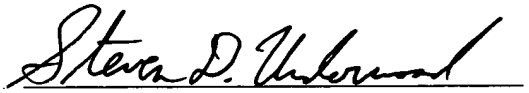
New claims 43-66 are believed to be allowable for the same reasons as discussed above, since they each have at least one of the limitations in claims 25 and 39-42 that are absent from the cited prior art (even when combined). For example, they all have an attendance right option limitation.

No statements made herein are intended to reduce the scope of the claims beyond that dictated by the plain wording of the claims themselves. Arguments regarding claim limitations are intended to apply only to claims explicitly possessing those limitations.

No fee is believed to be due with this Amendment (other than the extension fee authorized above and the RCE fee). However, if any fee is due, please charge that fee to Deposit Account No. 50-0310.

Respectfully submitted,
MORGAN, LEWIS & BOCKIUS LLP

Dated: June 17, 2005



Steven D. Underwood, Esq.
Registration No. 47,205
Telephone No. (212) 309-6000